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MAZUMDAR, SONYA	
ART UNIT	**PAPER NUMBER**
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ANDREA BRANCA, CLAUDIO GEMMITI,
JULIAN ASHTON, DAVID SARRO,
and DOMENICO ESPOSITO

Appeal 2008-5892
Application 10/715,752
Technology Center 1700

Decided:[1] February 17, 2009

Before EDWARD C. KIMLIN, KAREN M. HASTINGS, and
MICHAEL P. COLAIANNI, *Administrative Patent Judges*.

KIMLIN, *Administrative Patent Judge*.

DECISION ON APPEAL

[1] The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, begins to run from the decided date shown on this page of the decision. The time period does not run from the Mail Date (paper delivery) or Notification Date (electronic delivery).

This is an appeal from the final rejection of claims 1-4, 7, and 10-14.

Claims 1 and 2 and illustrative:

1. A process for applying an active material onto an article, series of articles or web of articles, comprising the steps of:

a) applying said active material to a surface of a first tool in the form of a multitude of beads, with a coater unit having a multitude of applicators that are in close proximity to the surface, and positioned above the surface;

b) heating the coater unit such that the active material is applied at a temperature of between 70 degrees C and 250 degrees C;

c) contacting the surface of the first tool containing the active material, with a coating blade which has an angle of between 5° and 40° with the tangent of the surface of the first tool, and which applies a constant pressure onto the surface with active material; and

d) transferring the active material from the surface of the first tool to an article, series of articles or web of articles, supported on a surface of a second tool and pressed against the surface of the first tool.

2. A process for applying an active material onto an article, series of articles or web of articles, comprising the steps of:

a) applying said active material to a surface of a first tool; and

b) transferring said active material from the surface of the first tool to an article, series of articles or web of articles, supported on a surface of a second tool and pressed against the surface of the first tool, wherein the active material in step a) is applied in the form of a multitude of beads with a coater having a multitude of extruder-

> applicators, which are in close proximity to the surface of the first tool; wherein the coater is heated such that the active material is applied at a temperature between 70 degrees C and 250 degrees C.

The Examiner relies upon the following references in the rejection of the appealed claims (Ans. 3):

Sirota	3,574,153	Apr. 06, 1971
Herzog	3,762,365	Oct. 02, 1973
Hefele	4,141,313	Feb. 27, 1979
Yajima	4,343,260	Aug. 10, 1982
Goodnow	4,906,335	Mar. 06, 1990
Friesch	5,064,492	Nov. 12, 1991
Hefele	5,569,348	Oct. 29, 1996
Datta	5,695,376	Dec. 09, 1997
Koehn	6,475,283 B1	Nov. 05, 2002
Kaylor	2003/0138570 A1	Jul. 24, 2003
Lender	EP 0 978 263 A1	Sept. 02, 2000

Appellants' claimed invention is directed to a process of applying an active material onto an article or web of articles. The material is applied in the form of a multitude of beads by a coater to a surface of a first tool, with the coater having a multitude of applicators (claim 1) or a multitude of extruder-applicators (claim 2). The material is then transferred from the surface of the first tool to a surface supported on a second tool.

Appealed claim 2 stands rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as being unpatentable over Hefele '348. The appealed claims stand rejected under 35 U.S.C. § 103(a) as follows:

(a) claims 1 and 3 over Sirota and Goodnow,
(b) claims 1, 3, and 11 over Lender in view of Koehn and Goodnow,
(c) claims 1, 3, and 11 over Yajima in view of Herzog and Hefele '313,

(d) claim 4 over Yajima in view of Herzog, Hefele '313, Lender, and Friesch,
(e) claim 7 over Yajima in view of Herzog, Hefele '313, and Hefele '348,
(f) claims 10, 12, and 13 over Yajima in view of Herzog, Hefele '313, and Kaylor, and
(g) claim 14 over Yajima in view of Herzog, Hefele '313, Hefele '348, and Datta.

We have thoroughly reviewed each of Appellants' arguments for patentability. However, we are in full agreement with the Examiner that the claimed subject matter is unpatentable over the cited prior art. Accordingly, we will sustain the Examiner's rejections for the reasons set forth in the Answer and we add the following primarily for emphasis.

We consider first the Examiner's § 102/103 rejection of claim 2 over Hefele '348. There is no dispute that Hefele '348, like Appellants, discloses a process of applying an active material, namely, an adhesive, on a surface of a first tool, a roller, by means of a coater that comprises a multitude of applicators in the form of surface cavities, which active material is then transferred to a final carrier.

Appellants submit that Hefele '348 discloses that the adhesive is applied in the form of dots, and, therefore, Hefele "does not teach or suggest a multitude of beads" (App. Br. 7, first para.). However, we agree with the Examiner that there is no apparent, meaningful distinction between the structure or configuration of "dots" and "beads", and Appellants have not set forth any such distinction. When the claim language "beads" is given its broadest reasonable interpretation, we find that it encompasses the dots of the reference. The claims are not limited to the specific forms of the beads depicted in Appellants' Specification drawings.

Appellants also maintain that "the present application clearly discloses that the active material (e.g., adhesive) is forced through an opening (e.g., a die opening) [whereas Hefele '348] does not teach or suggest extruding an adhesive through an opening" (App. Br. 8, first para.). However, appealed claim 2 does not require forcing the active material through a die opening, or any opening. Claim 2 recites applying the active material "with a coater having a multitude of extruder-applicators". The Examiner has cited Dictionary.com for its definition of "extrude" as "to thrust out, force, or press out". While Appellants contend in their Reply Brief that "the Office's use of the dictionary recited above is improper" (Reply Br. 2, second para.), the first definition given by the Reader's Digest Great Encyclopedic Dictionary (1968) is essentially the same, "[t]o force, thrust, or push out". The second definition given by the Reader's Digest is "[t]o shape (plastic, metal, etc.) by forcing through dies under pressure". Hence, when the claim language "extruder-applicators" is given its broadest reasonable interpretation, as it must, it can be seen that the applicator of Hefele '348 qualifies as an extruder.

Appellants also state that they "are unable to find any reasoning by the Office as to why it is the pressure between the rollers that is forcing the adhesive out of the surface cavities [of Hefele '348]" (App. Br. 7, last para.). As pointed by the Examiner, however, the reference expressly states that "[t]he hot melt adhesive powder is applied by the engraved roller (28) which is *pressed* on the rubber-coated heating roller (12) so that the powder is transferred in a raster-pattern on the heating roller (Hefele '348, col. 6, ll. 36-38 (emphasis added)).

We now turn to the Examiner's § 103 rejection of claims 1 and 3 over Sirota in view of Koehn and Goodnow. Sirota teaches the application of an adhesive on a roller with the control of a doctor blade, but does not disclose that the adhesive is applied as a multitude of beads. However, we agree with the Examiner that Koehn evidences the obviousness of applying the adhesive in a pattern of beads to reduce leakage and the subsequent time-consuming cleaning procedure. We are not persuaded by Appellants' argument that the "small drops" applied by the nozzles of Koehn do not meet the claim requirement for a "multitude of beads". Appellants' reliance on the disclosure and figures of the present Specification is inappropriate inasmuch as features disclosed in the Specification are not to be read into the claims. *In re Etter*, 756 F.2d 852, 858 (Fed. Cir. 1985). We also agree with the Examiner that Goodnow supports the obviousness of determining the optimum angle of the doctor blade by routine experimentation. In particular, Goodnow discloses "[a]mong the critical factors to an effective doctoring operation are optimum blade angle" (col. 1, ll. 20-21). While Appellants "are unable to find any disclosure in Goodnow directed to a specific use for the apparatus" (App. Br. 9, second to last para.), we are satisfied that one of ordinary skill in the art would have understood that Goodnow's disclosure pertains to the operation of a doctor blade, in general.

Concerning the § 103 rejection of claims 1, 3, and 11 over Lender in view of Koehn and Goodnow, we agree with the Examiner, for the reasons set forth above with respect to the rejection over Sirota, that it would have been obvious for one of ordinary skill in the art to perform the coating of adhesive by Lender with the nozzles of Koehn. We are not persuaded by Appellants' argument that Lender teaches away from using the spray nozzles

of Koehn. Notwithstanding the various advantages and disadvantages of using different known coating methods, we concur with the Examiner that "Lender clearly teaches that any means known in the art to apply adhesive such as slot coating, spraying, and applicator rolls may be used a[sic] roller (31), or first tool (paragraph 0037; Figure 1)" (Ans. para. bridging 14-15). As for Appellants' reference to the preferred temperatures disclosed in the present Specification, the Examiner properly points out that no such temperatures are recited in the claims.

Regarding the rejection of claims 1, 3, and 11 over Yajima in view of Herzog and Hefele '313, we are in full agreement with the Examiner that it would have been obvious for one of ordinary skill in the art to maintain the coating unit of Yajima at a specific temperature or temperature range, and to use two adhesive applicators placed around the engraved roller, as taught by Hefele '313. As for Appellants' argument that Yajima and Hefele '313 are not properly combinable because Hefele '313 is directed to a powdered adhesive, the Examiner cites Hefele '313 for its teaching regarding the contact angle of a doctor blade which "would be useful for filling either a powdered or liquid adhesive in the roller's cavities" (Ans. 16, second para.). The Examiner also points out that "Yajima discloses being able to apply an adhesive with a viscosity between 1 cps to about 1,000,000 cps (Yajima: column 2, lines 66-68) and Hefele ['313] teach [sic. teaches] applying adhesive within that viscosity range, depending on the temperature (column 8, lines 12-13 and lines 22-23)" (*id.*).

Appellants fail to present additional substantive arguments for the remaining § 103 rejections.

As a final point, we note that Appellants base no argument upon objective evidence of non-obviousness such as unexpected results.

In conclusion, based on the foregoing and the reasons well-stated by the Examiner, the Examiner's decision rejecting the appealed claims is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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Notice of References Cited	Application/Control No. 10/715,752	Applicant(s)/Patent Under Reexamination	
	Examiner BPAI	Art Unit 1791	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification	
	A	US-				
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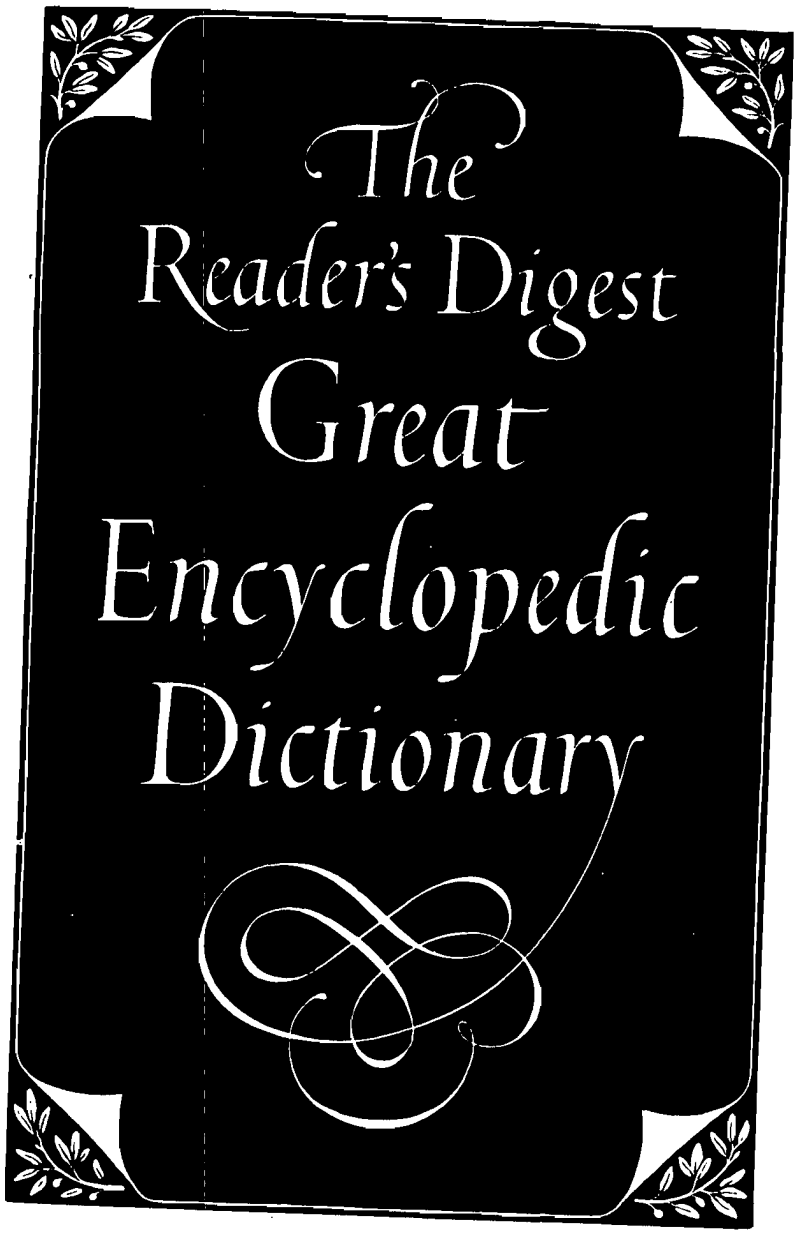
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NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	"Extrude", Reader's Digest Great Encyclopedic Dictionary (Reader's Digest Association, Inc. 1968).
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*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
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ex·tra·dite (eks′trə·dīt) *v.t.* **·dit·ed, ·dit·ing** **1.** To deliver up (an accused individual, prisoner, or fugitive) to the jurisdiction of some other state, country, etc. **2.** To obtain the extradition of. Back formation < EXTRADITION.

ex·tra·di·tion (eks′trə·dish′ən) *n.* The surrender of an accused individual, prisoner, or fugitive by one state, etc., to the jurisdiction of another. < F < L *extradito, -onis* < *ex-* out + *traditio* surrender. See TRADITION.

ex·tra·dos (eks·trā′dos) *n. Archit.* The exterior curve of an arch. For illustration see ARCH. < F < L *extra* beyond + F *dos* the back < L *dorsum*.

ex·tra·ga·lac·tic (eks′trə·gə·lak′tik) *adj. Astron.* Situated beyond the Galaxy.

ex·tra·ju·di·cial (eks′trə·joo·dish′əl) *adj.* Lying or occurring outside the jurisdiction of a court. — **ex′tra·ju·di′cial·ly** *adv.*

ex·tra·mun·dane (eks′trə·mun′dān, mun·dān′) *adj.* Existing outside the world or universe.

ex·tra·mu·ral (eks′trə·myoor′əl) *adj.* **1.** Situated without or beyond the walls, as of a fortified city. **2.** Taking place beyond the boundaries of an educational institution: *extramural* games: opposed to *intramural*.

ex·tra·ne·ous (ik·strā′nē·əs) *adj.* **1.** Coming from without; foreign: *extraneous* rock. **2.** Unrelated to the matter at hand; not germane: an *extraneous* remark. [< L *extraneus* foreign, external < *extra*. Doublet of STRANGE.] — **ex·tra′ne·ous·ly** *adv.* — **ex·tra′ne·ous·ness** *n.*

ex·traor·di·nar·y (ik·strôr′də·ner′ē; *esp. for def. 3* eks′trə·ôr′də·ner′ē) *adj.* **1.** Being beyond or out of the common order, course, or method. **2.** Far exceeding the usual; exceptional; remarkable: an *extraordinary* accident. **3.** Employed for a special purpose or on an exceptional occasion; special: an envoy *extraordinary*. [< L *extraordinarius* < *extra* beyond + *ordo, ordinis* order] — **ex·traor′di·nar′i·ly** *adv.*

— **Syn. 2.** uncommon, phenomenal, rare, singular. — **Ant.** ordinary, common, commonplace, usual, frequent.

ex·tra·phys·i·cal (eks′trə·fiz′i·kəl) *adj.* Outside the scope of physical laws and methods. — **ex′tra·phys′i·cal·ly** *adv.*

ex·trap·o·late (eks·trap′ə·lāt) *v.t. & v.i.* **·lat·ed, ·lat·ing** **1.** *Math.* To project (those values of a magnitude or function that lie beyond the range of known values) on the basis of values that have already been determined: distinguished from *interpolate*. **2.** To infer (a possibility) beyond the strict evidence of a series of facts, events, observations, etc. [< EXTRA- + (INTER)POLATE] — **ex·trap′o·la′tion** *n.* — **ex·trap′o·la′tive** *adj.*

ex·tra·pro·fes·sion·al (eks′trə·prə·fesh′ən·əl) *adj.* Outside the usual limits of professional duty or interest.

ex·tra·sen·so·ry (eks′trə·sen′sər·ē) *adj.* Beyond the range of normal sensory perception.

extrasensory perception Powers of perception of external objects or events not directly accessible to any of the sense organs. Abbr. *ESP*.

ex·tra·ter·ri·to·ri·al (eks′trə·ter′ə·tôr′ē·əl, -tō′rē-) *adj.* **1.** Exempt from local territorial jurisdiction: the *extraterritorial* rights of an ambassador. **2.** Outside of the national territory: *extraterritorial* possessions. Also *exterritorial*. — **ex′tra·ter′ri·to′ri·al·ly** *adv.*

ex·tra·ter·ri·to·ri·al·i·ty (eks′trə·ter′ə·tôr′ē·al′ə·tē, -tō′rē-) *n.* **1.** In international law, exemption from local territorial jurisdiction, as accorded to foreign sovereigns, diplomatic representatives, etc. **2.** Jurisdiction of a country over its citizens in another country.

ex·tra·u·ter·ine (eks′trə·yōō′tər·in, -tə·rīn) *adj.* Situated or occurring outside of the uterus, as a pregnancy.

ex·trav·a·gance (ik·strav′ə·gəns) *n.* **1.** Wasteful expenditure of money. **2.** Extreme lack of moderation in behavior or speech; excess. **3.** An instance of wastefulness or excess in expenditure, behavior, or speech. Also **ex·trav·a·gan·cy.** [< F]

ex·trav·a·gant (ik·strav′ə·gənt) *adj.* **1.** Overly lavish in expenditure; wasteful. **2.** Exceeding reasonable limits; immoderate; unrestrained: *extravagant* praise. **3.** Flagrantly high; exorbitant: *extravagant* prices. **4.** *Obs.* Straying beyond bounds. [< MF < Med.L *extravagans, -antis*, ppr. of *extravagari* < L *extra* outside + *vagari* to wander] — **ex·trav′a·gant·ly** *adv.* — **ex·trav′a·gant·ness** *n.*

ex·trav·a·gan·za (ik·strav′ə·gan′zə) *n.* A fantastic and elaborate musical or dramatic composition; especially, a lavish, spectacular theatrical production. [< Ital. *estravaganza* extravagance, ult. < Med.L *extravagari*. See EXTRAVAGANT.]

ex·trav·a·gate (ik·strav′ə·gāt) *v.i.* **·gat·ed, ·gat·ing** **1.** To roam at will. **2.** To exceed proper bounds. [< Med.L *extravagatus*, pp. of *extravagari*. See EXTRAVAGANT.]

ex·trav·a·sate (ik·strav′ə·sāt) *v.* **·sat·ed, ·sat·ing** *v.t.* **1.** *Pathol.* To cause or allow the escape of (blood, etc.) from the

ex·tra·vas·cu·lar (eks′trə·vas′kyə·lər) *adj. Anat.* Located outside the vascular system. **2.** Having no blood vessels; nonvascular.

ex·tra·ver·sion (eks′trə·vûr′zhən, -shən), **ex·tra·vert** (eks′trə·vûrt) See EXTROVERSION, EXTROVERT.

Ex·tre·ma·du·ra (es′trä·mä·thoo′rä) The Spanish name for ESTREMADURA.

ex·treme (ik·strēm′) *adj.* **1.** Being of the highest degree; exceedingly great or severe: *extreme* danger; *extreme* weakness. **2.** Going far beyond the bounds of moderation; exceeding what is considered reasonable; immoderate; radical: an *extreme* fashion; an *extreme* reactionary; also, very severe or drastic: *extreme* measures. **3.** Situated at the farthest limit; outermost: the *extreme* border of a country. **4.** Last; final: *extreme* unction. — *n.* **1.** The highest degree; utmost point or verge: the *extreme* of cruelty; hospitable in the extreme. **2.** One of the two ends or farthest limits of a thing: the *extremes* of joy and sorrow. **3.** An extreme condition, as one of great danger or distress: He is constantly at *extremes*. **4.** *Math.* The first or last term of a proportion or series. **5.** *Logic* **a** Either the subject or predicate of a proposition, as distinguished from the copula. **b** Either of the two terms of a syllogism that, separated in the premises, are joined in the conclusion. — **in the extreme** To the greatest or highest degree. — **to go to extremes** To use extreme measures; carry something to excess. [< OF < L *extremus*, superl. of *exterus* outside] — **ex·treme′ness** *n.*

ex·treme·ly (ik·strēm′lē) *adv.* Exceedingly; very.

extreme unction Unction (def. 2b).

ex·trem·ism (ik·strē′miz·əm) *n.* A tendency to go to extremes.

ex·trem·ist (ik·strē′mist) *n.* **1.** One who advocates extreme measures or holds extreme views. **2.** One who carries something to excess. — *adj.* Of or pertaining to extremists or extremists.

ex·trem·i·ty (ik·strem′ə·tē) *n. pl.* **·ties** **1.** The utmost or farthest point; termination, end, or edge: the *extremity* of a line. **2.** The greatest degree: the *extremity* of grief. **3.** An extreme condition of distress, need, danger, etc.; especially, one's dying moments. **4.** *pl.* Extreme measures: to resort to *extremities*. **5.** A limb or appendage of the body; especially, *pl.*, the end parts of a limb or appendage; the hands or feet.

ex·tri·ca·ble (eks′tri·kə·bəl) *adj.* That can be extricated.

ex·tri·cate (eks′trə·kāt) *v.t.* **·cat·ed, ·cat·ing** **1.** To free from entanglement, hindrance, or difficulties; disentangle. **2.** To cause to be given off; emit, as gas or moisture. [< L *extricatus*, pp. of *extricare* < *ex-* out + *tricae* trifles, troubles] — **ex′tri·ca′tion** *n.*

ex·trin·sic (ek·strin′sik) *adj.* **1.** Being outside the nature of something; not inherent or included in a thing; not essential: opposed to *intrinsic*. **2.** Derived or acting from without; extraneous. **3.** *Anat.* Originating beyond the limits of a body or limb: *extrinsic* muscles. Also **ex·trin′si·cal.** [< *Fr. intrinsèque* < L *extrinsecus* outwardly < *exter* outside + *secus* besides < *sequi* to follow] — **ex·trin′si·cal·ly** *adv.* — **ex·trin′si·cal·ness** *n.*

— **Syn. 1.** external, unessential, extraneous.

ex·trorse (eks·trôrs′) *adj. Bot.* Turned outward, as an anther from the axis of a flower: opposed to *introrse*. Also **ex·tror′sal.** [< F < L *extrorsus* outward < *extra* outside + *versus* toward]

ex·tro·ver·sion (eks′trə·vûr′zhən, -shən) *n.* **1.** *Psychol.* The turning of one's interest toward objects and actions outside the self rather than toward one's own thoughts or feelings: opposed to *introversion*: also spelled *extraversion*. **2.** *Pathol.* Exstrophy. [< *extro-* outwards (< EXTRA-) + L *versio, -onis* a turning < *vertere* to turn]

ex·tro·vert (eks′trə·vûrt) *n. Psychol.* **1.** A person characterized by extroversion. **2.** Loosely, one who is gregarious, exuberant, etc. Opposed to *introvert*. — *adj.* Characterized by extroversion. Also spelled *extravert*.

ex·trude (ik·strood′) *v.* **·trud·ed, ·trud·ing** *v.t.* **1.** To force, thrust, or push out. **2.** To shape (plastic, metal, etc.) by forcing through dies under pressure. — *v.i.* **3.** To protrude. [< L *extrudere* < *ex-* out + *trudere* to thrust]

ex·tru·sion (ik·stroo′zhən) *n.* **1.** The act or process of extruding. **2.** *Geol.* An overflow of lava upon the earth's surface through conduits or fissures in the rocks.

ex·tru·sive (ik·stroo′siv) *adj.* **1.** Tending to extrude. **2.** *Geol.* Extruded, as outflows of igneous rocks.

ex·u·ber·ance (ig·zoo′bər·əns) *n.* **1.** The quality of being exuberant; abundance of high spirits, health, growth, etc. **2.** An instance of this. Also **ex·u′ber·an·cy.**

ex·u·ber·ant (ig·zoo′bər·ənt) *adj.* **1.** Abounding in high spirits and vitality; full of joy and vigor. **2.** Overflowing; lavish; effusive: *exuberant* praise. **3.** Growing luxuriantly: *exuberant* foliage. **4.** Exceedingly fertile: an *exuberant* in-